

8A.207 Procurement of information technology.

1. Standards established by the department, unless waived by the department, shall apply to all information technology procurements for participating agencies.

2. The department shall institute procedures to ensure effective and efficient compliance with standards established by the department.

3. The department shall develop policies and procedures that apply to all information technology goods and services acquisitions, and shall ensure the compliance of all participating agencies. The department shall also be the sole provider of infrastructure services for participating agencies.

4. The department, by rule, may implement a prequalification procedure for contractors with which the department has entered or intends to enter into agreements regarding the procurement of information technology.

5. Notwithstanding the provisions governing purchasing as provided in subchapter III, the department may procure information technology as provided in this section. The department may cooperate with other governmental entities in the procurement of information technology in an effort to make such procurements in a cost-effective, efficient manner as provided in this section. The department, as deemed appropriate and cost-effective, may procure information technology using any of the following methods:

a. *Cooperative procurement agreement.* The department may enter into a cooperative procurement agreement with another governmental entity relating to the procurement of information technology, whether such information technology is for the use of the department or other governmental entities. The cooperative procurement agreement shall clearly specify the purpose of the agreement and the method by which such purpose will be accomplished. Any power exercised under such agreement shall not exceed the power granted to any party to the agreement.

b. *Negotiated contract.* The department may enter into an agreement for the purchase of information technology if any of the following applies:

(1) The contract price, terms, and conditions are pursuant to the current federal supply contract, and the purchase order adequately identifies the federal supply contract under which the procurement is to be made.

(2) The contract price, terms, and conditions are no less favorable than the contractor's current federal supply contract price, terms, and conditions; the contractor has indicated in writing a willingness to extend such price, terms, and conditions to the department; and the purchase order adequately identifies the contract relied upon.

(3) The contract is with a vendor which has a current exclusive or nonexclusive price agreement with the state for the information technology to be procured, and such information technology meets the same standards and specifications as the items to be procured and both of the following apply:

(a) The quantity purchased does not exceed the quantity which may be purchased under the applicable price agreement.

(b) The purchase order adequately identifies the price agreement relied upon.

c. *Contracts let by another governmental entity.* The department, on its own behalf or on the behalf of another participating agency or governmental entity, may procure information technology under an existing competitively procured contract let by another governmental entity, or may approve such procurement in the same manner by a participating agency or governmental entity. The department, on its own behalf or on the behalf of another participating agency or governmental entity, may also procure information technology by leveraging an existing competitively procured contract, or* other than a contract associated with the state board of regents or an institution under the control of the state board of regents.

d. *Reverse auction.*

(1) The department may enter into an agreement for the purchase of information technology utilizing a reverse auction process. Such process shall result in the purchase of information technology from the vendor submitting the lowest responsible bid amount for the information technology to be acquired. The department, in establishing a reverse auction process, shall do all of the following:

(a) Determine the specifications and requirements of the information technology to be acquired.

(b) Identify and provide notice to potential vendors concerning the proposed acquisition.

(c) Establish prequalification requirements to be met by a vendor to be eligible to participate in the reverse auction.

(d) Conduct the reverse auction in a manner as deemed appropriate by the department and consistent with rules adopted by the department.

(2) Prior to conducting a reverse auction, the department shall establish a threshold amount which shall be the maximum amount which the department is willing to pay for the information technology to be acquired.

(3) The department shall enter into an agreement with a vendor who is the lowest responsible bidder which meets the specifications or description of the information technology to be procured, or the department may reject all bids and begin the process again. In determining the lowest responsible bidder, the department may consider various factors including, but not limited to, the past performance of the vendor relative to quality of product or service, the past experience of the department in relation to the product or service, the relative quality of products or services, the proposed terms of delivery, and the best interest of the state.

e. Competitive bidding. The department may enter into an agreement for the procurement or acquisition of information technology in the same manner as provided under subchapter III for the purchasing of service.

f. Other agreements. In addition to the competitive bidding procedure provided for under paragraph “e”, the department may enter into an agreement for the purchase, disposal, or other disposition of information technology in the same manner and subject to the same limitations as otherwise provided in this chapter. The department, by rule, shall provide for such procedures.

6. The department shall adopt rules pursuant to chapter 17A to implement the procurement methods and procedures provided for in subsections 2 through 5.

2003 Acts, ch 145, §23; 2010 Acts, ch 1031, §17; 2010 Acts, ch 1189, §36

*The word “or” probably not intended; corrective legislation is pending

NEW subsection 3 and former subsections 3 – 5 renumbered as 4 – 6

Subsection 5, paragraph c amended